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Appl. No. 10/688,492
Amdt. dated 26th May 2006
Amendment & Reply to Office action mailed 10th March 2006

REMARKS / ARGUMENT

Reconsideration Requested

Applicant has given careful consideration to the grounds of the primary examiner in objections and rejections of applicant's claims under 35 USC §§112, 102(b), and 103(a). A substantial portion of applicant's claimed subject matter stands allowed (including claims 6, 7, 13, 14 and 24, objected to as being dependent upon a base claim that stands rejected as of the latest action mailed 10-Mar-2006). All amendments recited herein, have been made for purposes of clarification of originally claimed subject matter, and enjoy full support of applicant's specification, claims, drawings, and abstract as filed; no new matter is included. Once again, applicant respectfully solicits reconsideration of the rejections and objections. As will be appreciated, each independent claim recites a patentable combination.

Rejection under §112 of claims 1-3, 5-7, 10-14 for a reference point for terms "a direction"

The examiner has requested a reference point in connection with terms "a direction" as used in claims 1-3, 5-7, and 10-14; *e.g.*, claim 1 recites:

☒ each said leg assembly comprising a hinge-fitting interconnecting a first and second elongated subassembly, said hinge-fitting adapted to permit at least a pivot range of 170-degrees of rotation and said hinge-fitting to comprise a locking mechanism for holding said hinge-fitting in a rotation-direction; . . .

Applicant's specification provides guidance and support, such as, on page 5, lines 6 – 11 [*emphasis added*]:

Additional features of the hinge-fittings include: a locking mechanism for holding the hinge-fitting in any one of a plurality of directions within its pivot range. The locking mechanism may take on a variety of suitable shapes including a series of recesses or through-holes and associated spring-loaded detent on a central pivot component, a detent pin, a clip, or other suitable mechanical 'stop' for locking the hinge-fitting in a selected rotation-direction. . . .

Then again on page 11, lines 1 – 6 applicant states [*emphasis added*]:

The novel design of the hinge-fittings permits a pivot range of rotation; throughout the figures, this range is illustrated by picturing apparatus 10 in various configurations whereby the rotation angle for any configuration is labeled $\alpha_A - \alpha_D$, to coincide with the labeling of hinge-fittings 17A – 17D. This pivot range may be up to 90-degrees, up to 170-degrees, just under 180-degrees, and so on. . . .

As well as on page 11, line 31 – page 12, line 4 applicant states [*emphasis added*]:

. . . Hinge-fitting 17A includes a locking mechanism 37A for holding the hinge-fitting in any one of a plurality of directions within its pivot range. The locking mechanism may take on a variety of suitable shapes including a series of recesses or through-holes, such as those shown at 37A, and one or more associated spring-loaded detent(s) on a central pivot component, a detent pin, a clip, or other suitable mechanical 'stop' for locking the hinge-fitting in a selected rotation-direction (*e.g.*, FIG. 2 at 32B and FIG. 7 at 32C). . . .

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While only in the form of a general guidance during prosecution, as opposed to federal statutory law and PTO promulgated regulations, MPEP §2173.05(a) sheds light on this subject:

The meaning of every term used in a claim should be apparent from the prior art or from the specification and drawings at the time the application is filed. Applicants need not confine themselves to the terminology used in the prior art, but are required to make clear and precise the terms that are used to define the invention whereby the metes and bounds of the claimed invention can be ascertained. . . . [*citations omitted*].

Courts have recognized that it is not only permissible, but often desirable, to use new terms that are frequently more precise in describing and defining the new invention [*citation omitted*]. . . .

. . . The requirements for clarity and precision must be balanced with the limitations of the language and the science. If the claims, read in light of the specification, reasonably apprise those skilled in the art both of the utilization and scope of the invention, and if the language is as precise as the subject matter permits, the statute (35 U.S.C. 112, second paragraph) demands no more [*citations omitted*].

As one can appreciate, ample description has been provided in the application of “direction” and “rotation-direction” as used in the claims—beyond the minimum required by law and associated promulgated regulations and MPEP-guidance; these claims overcome the §112 rejection.

Claim Rejections under 35 USC § 102 / Anticipation

Claims 1 and 5 (dependent on claim 1) now stand rejected as being anticipated, individually, by US Pat. N^o 2,493,978 (‘978) issued to Kromer, as well as Pat. N^o 2,849,202 (‘202) issued to McCombs. Dependent claims 2, 10 – 12 now stand rejected as being anticipated by Pat. N^o 2,849,202 (‘202) to McCombs.

As one will appreciate, missing from both Kromer and McCombs is structure specified in applicant’s claim 1 as had already been appreciated by the primary examiner to some extent. In an effort to lend readability to claim 1, for features initially recited therein, one paragraph of claim 1 has been updated, hereby:

☒ each said leg assembly comprising a hinge-fitting interconnecting a first and second elongated subassembly, said hinge-fitting adapted to permit at least a pivot range of 170-degrees of rotation and said hinge-fitting to comprise a locking mechanism for holding said hinge-fitting in a rotation-direction;

As can be further appreciated, each of McCombs ‘202 and Kromer ‘987 are missing features claimed in claims 2, 3, 5 – 7, 10 – 12, and 13 – 14 which depend from claim 1.

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For handy viewing, herein, examples of applicant's unique hinge-fitting structure are reproduced:

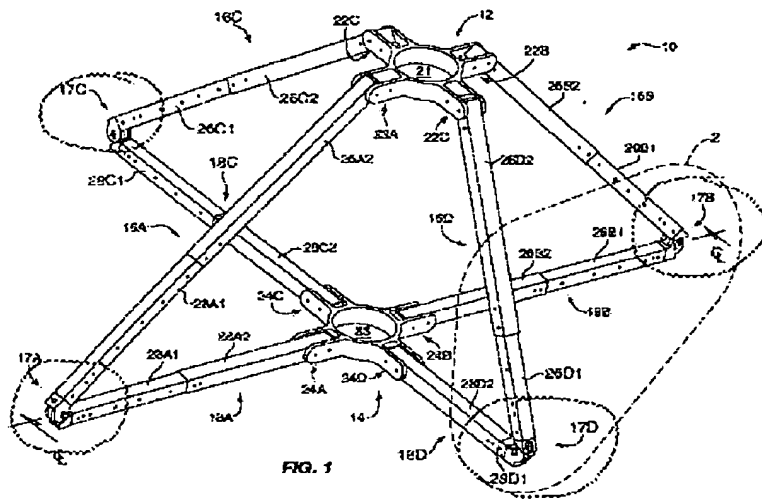


FIG. 1

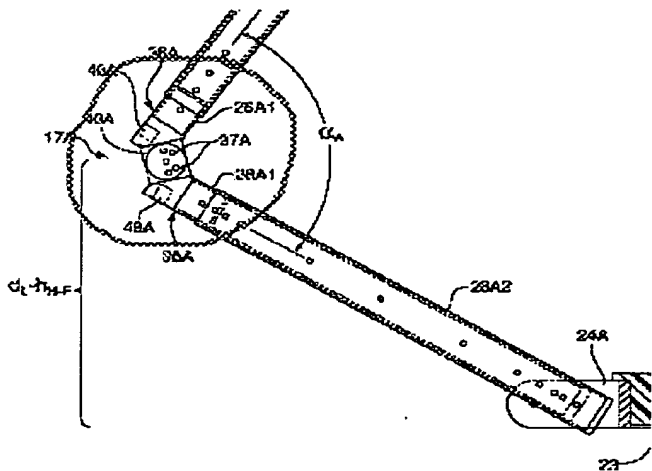
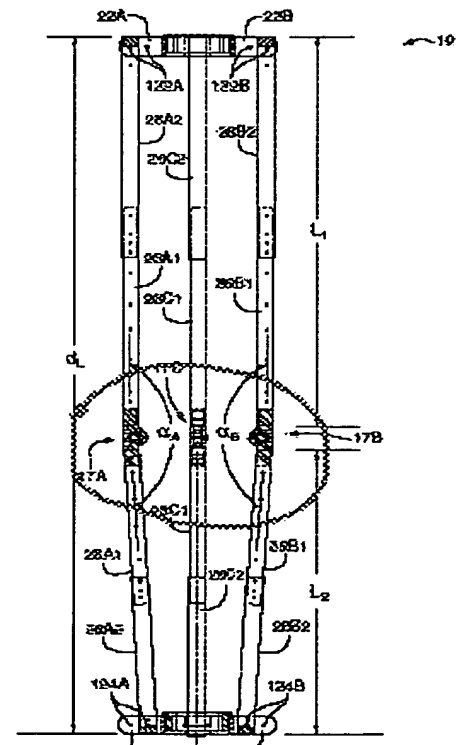


FIG. 4

FIG. 8



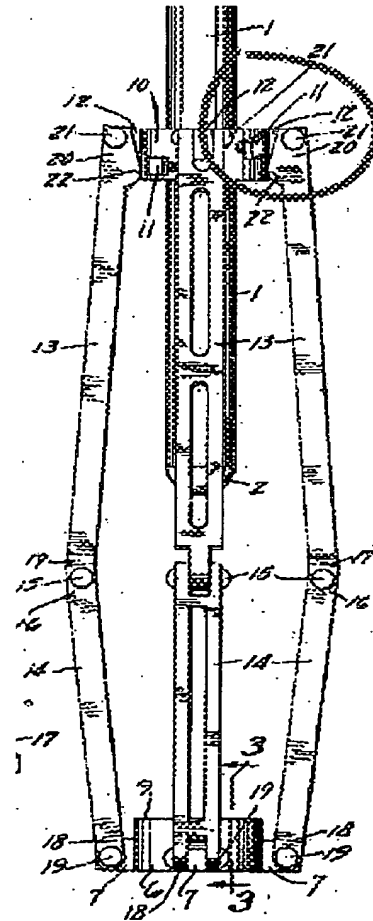
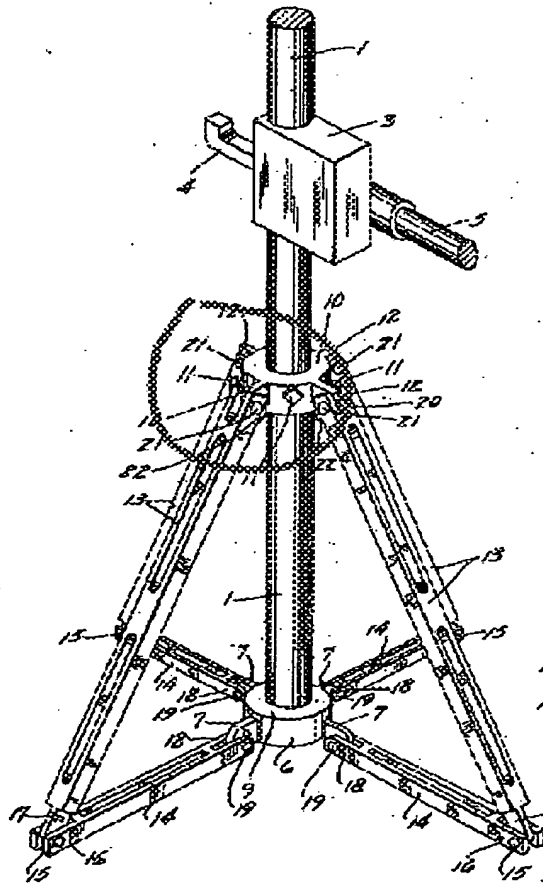
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The examiner suggests Kromer's jack has "a locking mechanism (11) for holding hinge-fitting in any one of a plurality of directions within the pivot range." A closer look at Kromer's jack reveals that bolt 11 is *not* positioned between upper arms 13 and lower arms 14 which are connected by simple pivot pins 15 (col 2, lines 26-28). Rather, in Kromer a different structure is shown and particularly described: "A flange or collar 10 is rigidly secured by means of bolts 11 [encircled in both Figs 1 & 2, below] to the supporting post 1 at a point remote from the end 2 thereof, but below the upper portion on which the head 3 is mounted for longitudinal movements [col 2, lines 17-21]." As one can appreciate, Kromer provides only a pivot pin, 15, with no stop feature between arms 13 and 14.

Fig. 1

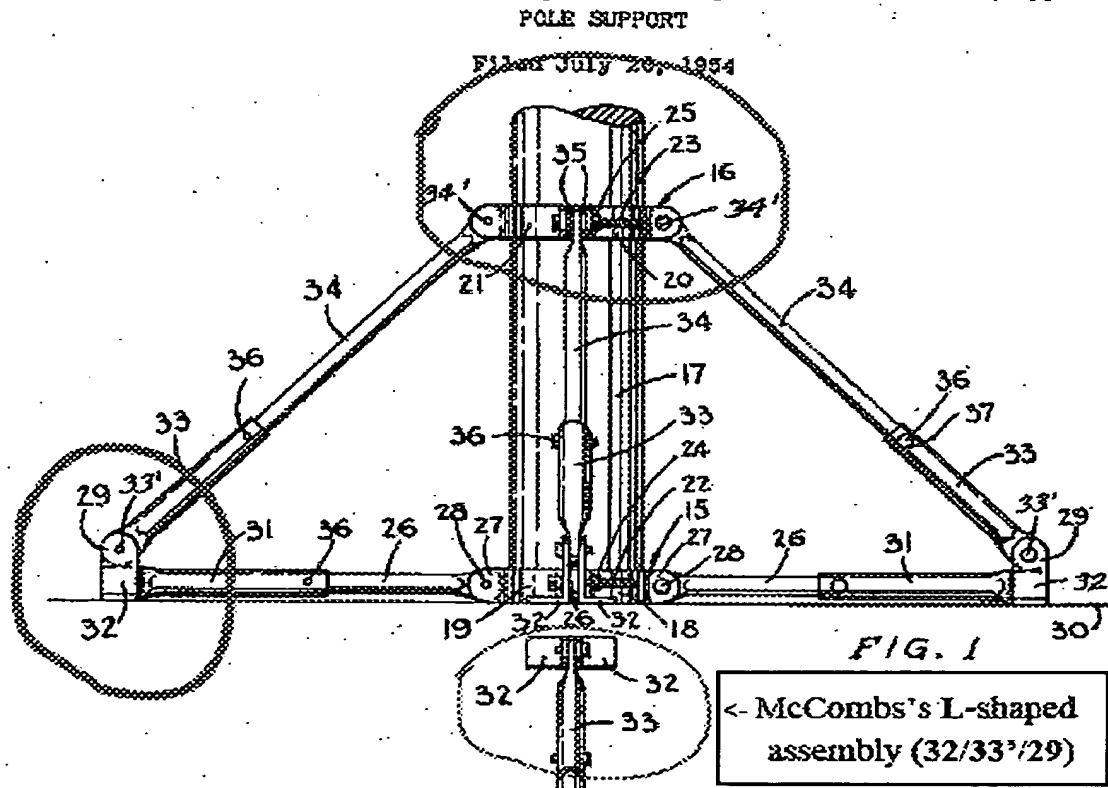


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The examiner suggests McCombs's pole support has "first, second, and third leg assemblies; an upper end of each leg assembly pivotally secured to extend from an upper support member (16) in a generally symmetrically fashion; a lower end of each of the leg assemblies pivotally secured to extend from a lower collar support (15); each of the leg assemblies comprising a hinge-fitting (@ 29) interconnecting first and second elongated subassemblies, the hinge-fitting adapted to permit at least a pivot range of 170-degrees of rotation and a locking mechanism (23, 25) for holding the hinge-fitting in any one of a plurality of directions within the pivot range;" A closer look at McCombs's pole support reveals a much different structure than that claimed by applicant. McCombs explains (col 1, lines 42-48) that half sections 18 and 19 of lower collar 15 are provided with ears at their ends, and in face to face relation a bolt 22 extends through adjacent pairs of ears, and a nut 24 is used to connect together half sections 18 and 19. Likewise, bolt 23 and an associated nut 25 are located and employed to secure an upper collar 16 made of two half sections: "The half sections 20 and 21 of the upper collar 16 are similarly connected together by the bolts 23 and nuts 25 [col 1, lines 50-52]."

The McCombs pairs of bolts & nuts (22, 24 and 23, 25) are *not* positioned between upper arms 34 and lower arms 26. But rather, upper and lower arms 34 and 36 are connected by an assembly [col 2, lines 5-12]: an L-shaped foot 32 has an upstanding standard 29; a tubular shank 33 has an outer or lower end pivoted at 33' between the standard 29 above a shank 31 on the lower arms 26. Like Kromer—and *unlike* applicant's unique claimed hinge-fitting design—McCombs provides no stop feature at 29, between upper and lower arms 34 and 36. Further, McCombs's L-shaped assembly 32/33'/29 (top plan cut-away, below, at <-) will not permit the range of motion claimed by applicant.

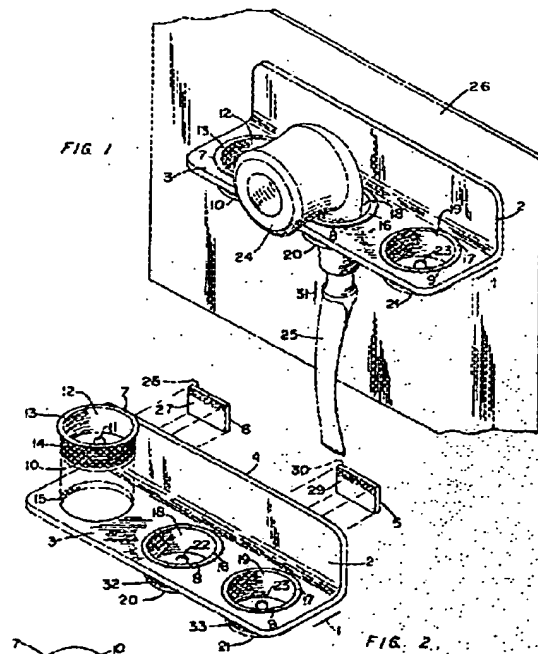


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Reconsideration Requested of Claim Rejections under 35 USC § 103(a)

Claims 3 and 23 stand rejected under 35 USC §103(a) as being unpatentable over McCombs '202 in view of Pat. N^o 4,334,621 ('621) to Webber. Webber is directed to a holder for smoking pipes which can be either permanently or temporarily attached to a surface. There is nothing to suggest, at all, that the pipe holder insert 7 with an "X" shaped opening be used elsewhere. Webber at col 2, lines 31 – 56 describes the insert; and in part states:

When the object, such as a pipe stem, is placed through the "X" shaped opening 11, the bottom surface 10 flexes to allow the stem through and then retracts to secure the stem in place. The flexible bottom surface 10 works to secure an object within the "X" shaped opening 11 whether the object is pushed through the "X" shaped opening 11 from above or below the insert 7. Insert 8 is placed into an opening (not shown) in the horizontal surface 3 of pipe holder 1. Insert 8 has an upper lip 16



Thus, by taking a closer look at the teachings of Webber '621 one can appreciate how the applicant's claimed device differs therefrom. There is nothing in McCombs '202 (or Krinner

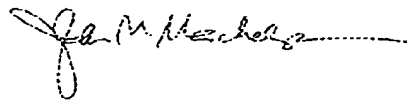
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'034) leading an artisan to conclude that either reference ought to be taken together with the other: McCombs makes no reference with respect to needing an insert. Previously presented claim 23, as well as its dependent claim 24, contain a patentable combination.

Summary/Conclusion and Request for Reconsideration

With each cited reference **silent** as to certain claimed features, and no suggestion or teaching to modify, or to combine any of these references, applicant's claims are patentable and overcome the §§102 and 103 rejections. In sum, after careful consideration of the references, one can see that each fails to disclose, teach or suggest the instant unique claimed invention. A closer look reveals that the references each stop short of appreciating or providing any motivation to arrive at innovation claimed in applicant's independent claims. And, although each dependent claim depending from an independent claim containing patentable subject matter is also considered patentably distinct by way of including features of a respective patentable independent claim(s), applicant's dependent claims include further limitations not taught or suggested in any combination of the references cited and noted. Nothing can be found in the references to lead an artisan to try to combine them, and nothing indicates any need to do so. Applicants' claims overcome the examiner's §§112, 102 and 103 rejections; and as such, each is patentably distinct from the art, and contains allowable subject matter. Favorable reconsideration is respectfully solicited. Please do not hesitate to call the undersigned.

Respectfully submitted this 26th day of May 2006



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